UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,121	10/26/2001	Petr Peterka	018926-006510US	2113

20350	7590	12/14/2005	EXAMINER

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EXAMINER	
COLIN, CARL G	

ART UNIT	PAPER NUMBER
2136	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/007,121	PETERKA ET AL.
	Examiner	Art Unit	
	Carl Colin	2136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _21 September 2005_ .

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-26_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-26_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _26 October 2001_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)		4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)		5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _see att_ .		6) ☐ Other: .

DETAILED ACTION

Response to Arguments

1.   In response to communications filed on 9/21/2005, applicant amends claims 1, 14, 17, 21,

and 23-25. The following claims 1-26 are presented for examination.

1.1   In response to communications filed on 9/21/2005, the objection of claim 24 has been

withdrawn in view of the amendment.

1.2   Applicant's remarks, pages 8-15, filed on 9/21/2005 have been considered but they are

not persuasive as amended. Applicant argues that Grimes does not disclose an origin server for

providing program content and a cache server for storing a copy of content distributed by the

origin server as amended. Examiner respectfully disagrees. First, Grimes discloses a plurality of

servers (page 3, paragraph 31) and some servers can be used as secondary storage or back up or

redundant servers for storing information about the content delivery system to prevent downtime,

the invention is not limited to only one DRM server and may comprise additional components

(page 3, paragraphs 31, 33, and 36), also the servers may have similar or same hardware

components, which means that any of the servers are adapted to perform authentication as the

DRM server (page 3, paragraph 31). Grimes' invention is not limited to having any server

distributing the content as explained below. It is apparent to one skilled in the art that a DRM

server may store a copy of the content provided by an origin server without departing from the

spirit and scope of the invention disclosed by Grimes. Applicant has amended the claims to

further limit the claimed invention. Upon further consideration, claims 1-15, 18, and 23 are now

rejected under 103 in view of Grimes and claims 16-17, 19-22 and 24-26 in view of Grimes and

Press.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or

described as set forth in section 102 of this title, if the differences between the subject matter

sought to be patented and the prior art are such that the subject matter as a whole would have

been obvious at the time the invention was made to a person having ordinary skill in the art to

which said subject matter pertains. Patentability shall not be negatived by the manner in which

the invention was made.

2.1   **Claims 1-15, 18, and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over

US Patent Publication US 2002/0002674 to **Grimes et al.**

As per claims 1, 4, 6, 10, and 23, Grimes et al discloses a method for distributing

program content in a network, comprising a client operable for communicating with any of the

servers across said network, (page 3, paragraph 29); and a plurality of servers (page 3, paragraph

31) and some servers can be used as secondary storage or back up or redundant servers for

storing information about the content delivery system to prevent downtime, the invention is not

limited to only one DRM server and may comprise additional components (page 3, paragraphs

31, 33, and 36), also the servers may have similar or same hardware components, which means

that any of the servers are adapted to perform authentication as the DRM server (page 3,

paragraph 31). Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to have redundant and backup servers for storing copy of the

program content distributed by one of the servers of the NOC. This modification would have

been obvious because one skilled in the art would have been motivated to do so in order to

prevent downtime thereby providing back up of content and load balancing as suggested by

Grimes et al (see page 4, paragraphs 31, 33, and 36).

Grimes et al discloses establishing a rule defining whether a client is entitled to receive

the program content (page 5, paragraph 44); storing said rule on said network (page 5,

paragraphs 44-45); allowing said client to request said program content from a DRM server or a

different server than the DRM that meets the recitation of origin server (page 4, paragraphs 39-

41). **Grimes et al** discloses using a DRM server (caching server) comprising a hardware profile

or pc profile to compare rule to a record describing at least one entitlement characteristic of said

client wherein at least one entitlement characteristic comprises data for use by the caching server

to authenticate the client so as to determine whether said client is entitled to receive said program

content (page 4, paragraphs 39-42) before distributing a key to said client for decrypting said

program content (page 5, paragraph 48); wherein the DRM server stores a copy of the program

content originally provided to the network by the origin server as explained above, and further

discloses multicasting said program content through use of said caching server (page 5,

paragraph 47).

As per claims 2-3, Grimes et al discloses the limitation of wherein said rule is comprised of a method of payment and discloses wherein said rule is comprised of a subscription identifier (page 5, paragraph 44).

As per claim 5, Grimes et al discloses the limitation of wherein said rule is comprised of a restriction based on a content rating for a user (page 4, paragraph 44).

As per claim 7, Grimes et al discloses using program ID that determines information indicating at least one service subscribed to by said client (page 4, paragraph 44).

As per claim 8, Grimes et al discloses using certificate that meets the recitation of wherein said at least one entitlement characteristic comprises data for use in authenticating said client with said caching server (page 4, paragraphs 43-44 and page 5, paragraph 48).

As per claim 9, Grimes et al discloses using profile that meets the recitation of wherein said at least one entitlement characteristic is stored by said client in a ticket (page paragraph 42).

As per claims 11-12, Grimes et al discloses further comprising encrypting said at least one entitlement characteristic so as to prevent said client from altering said at least one entitlement characteristic (page 5, paragraph 49).

As per claim 13, Grimes et al discloses the limitation of wherein said multicasting said program content is begun before said comparing said rule to said record (page 5, paragraph 47).

Claim 14 is similar to claim 1 but has broader limitation, claim 14 does not contain the using step, but contains formatting a data record comprising an identifier to identify said program content and said rule for said program content. Grimes et al discloses formatting a profile comprising program ID and program type to identify the rule and program content and a digital certificate including the program ID (page 5, paragraph 44). Therefore, claim 14 is rejected on the same rationale as the rejection of claim 1.

As per claims 15 and 18, Grimes et al discloses the limitation of authenticating said data record and conveying said data record to said client (page 5, paragraph 41).

3.   **Claims 16-17, 19-22 and 24-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2002/0002674 to **Grimes et al** in view of "Secure Transfer of Identity and Privilege Attributes in an Open Systems Environment"; 1991; 0167-4048/91, Elsevier Science Publishers Ltd. By JIM PRESS (*Applicant's Disclosure*).

3.1   **As per claims 16-17 and 19-22, Grimes et al** substantially discloses the claimed method of claim 14. **Grimes et al discloses** the limitation of conveying said program material to said client (page 5, paragraph 44 and 47) and discloses a trusted third party creating an encrypted digital certificate providing a key to the server for certificate validation process; decrypting said

data record with a key received from a trusted third party, wherein said trusted third party is a

trusted third party for said caching server and the origin server server, wherein said receiving

said data record for said client comprises: receiving said data record from said client (page 4,

paragraphs 41-43 and page 5, paragraphs 45-48). **Grimes et al** discloses conveying an identifer

identifying said program content from said client (page 4, paragraph 44 and page 6, paragraph

50) to said caching server **Grimes et al** discloses the use of certificate but is silent about <u>signing</u>

the document to be delivered to another party for verification, which is well known in the art of

cryptography. **Press** in an analogous art teaches a secure transfer of identity and privilege

attributes in an open system environment and proposes the use of cryptography to protect the

integrity and confidentiality of privilege attributes certificates. **Press** discloses signing a data

record, and conveying the signed data record to the client and further discloses conveying the

signed data record from the client to end systems (see pages 120-121); **Press** discloses signing a

data record so as to allow another server to authenticate the data record (see page 121, section 4)

and further discloses utilizing a trusted third party for providing key to APA server for use in

signing the data record and verification key to end-system servers for use in authenticating the

data record (see pages 122-124). Therefore, it would have been obvious to one of ordinary skill

in the art at the time the invention was made to modify the cryptographic protocol used in

Grimes et al to provide a trusted third party for providing key to APA server for use in signing

the data record and verification key to end-system servers for use in authenticating the data

record. One skilled in the art would have been motivated to recognize some of the many

advantages and approaches as suggested by **Press** to implement data protection and

authentication between several parties in this disclosure, for instance, one may choose to use

symmetric techniques over asymmetric for faster processes or a hybrid approach; also, using the procedure of a user obtaining a PAC (Privilege Attribute Certificate) from one party and deliver it to another party such as end-systems as evidence of his/her identity and access rights, and a trusted third party for providing keys to the other parties for use in signing and verifying the data record, as explained above, the authenticity of users are verified, integrity of the PAC is verified and replay attacks are prevented (see at least pages 121-124).

As per claims 24-26, the combination of **Grimes et al** and **Press** discloses receiving data record from client and decrypting said data record with a key received from a trusted third party, wherein said trusted third party is a trusted third party for a caching server and other server (origin server) (see **Press** pages 122-124, and **Grimes et al**, page 5, paragraphs 45 and 48, 53). As explained in claim 1 above, **Grimes et al** also discloses plurality of servers and further discloses the content can originate from a DRM server as well as content provider or other servers for example, (see page 3, paragraphs 31, 36, 38-43).

Conclusion

4.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

4.1   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure as the art discloses some of the claimed features of a multicast distribution system.

US Patents: 6,067,623 Blakley, III et al; 5,758,068 Brandt et al.

4.2   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Carl Colin whose telephone number is 571-272-3862. The

examiner can normally be reached on Monday through Thursday, 8:00-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Carl Colin

Patent Examiner

December 8, 2005

Primary Examiner
AU2131
12/11/05